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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,913	08/21/2003	Herbert Peter Jennissen	034258-1401	8136
30542	7590	02/22/2007	EXAMINER	
FOLEY & LARDNER LLP			NAFF, DAVID M	
P.O. BOX 80278			ART UNIT	PAPER NUMBER
SAN DIEGO, CA 92138-0278			1657	
			MAIL DATE	DELIVERY MODE
			02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)	
	10/646,913	JENNISSEN, HERBERT PETER	
	Examiner	Art Unit	
	David M. Naff	1657	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 24 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires 4 months from the mailing date of the final rejection.  
b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
(b)  They raise the issue of new matter (see NOTE below);  
(c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): 112, second paragraph.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 32-46.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 10/10/06

13.  Other: Interview summary attached.

  

David M. Naff  
Primary Examiner  
Art Unit: 1657

Continuation of 11. does NOT place the application in condition for allowance because: it would have been obvious from Vosika et al to covalently bond, rather than adsorb, the adhesion-mediating molecule of Sukenikk et al to the functional group on the surface. The response asserts that Sukenikk et al, Vosika et al, Senter et al and Mueller et al disclose only non-covalent bonding. However, these references are combined with the Vosika et al reference, which discloses covalently bonding cytokines to a linking arm covalently bound to a support. When Vosika et al is also considered, it would have been obvious that covalent bonding is an alternative to binding by adsorption for attaching the mediator molecule of Sukenikk et al to the functional group of the monolayer. When the references are considered in combination, it would have been apparent that one of two ways, i.e. adsorption or covalent bonding, can be used for attachment of the mediator molecule. It would have been well within the ordinary skill of the art to select one of these two ways as preferred for a particular immobilization procedure. The motivation to use covalent bonding instead of adsorption would have been the same motivation that resulted in Vosika et al using covalent bonding. Contrary to the argument in the response, Vosika et al dealt with the problem of coupling molecules to an inorganic surface such as a metal surface since Vosika et al disclose using inorganic supports including glass, ceramics and metals (page 22, lines 25-26). Sukenikk et al bind to glass and titanium surfaces (page 7, line 5), and also dealt with the problem of coupling molecules to an inorganic surface. Furthermore, any problem of bonding to an inorganic surface will occur only when bonding an anchor molecule to the surface since only the anchor molecule is bonded directly to the surface. Since the mediator molecule is bound to the surface via the anchor molecule, the mediator molecule does not contact the surface, and the type of surface used will not be expected to affect bonding of the mediator molecule. Sukenikk et al and Vosika et al covalently bond to an inorganic surface a molecule functioning as an anchor molecule, and these references apparently overcame any problem of bonding to an inorganic surface. In regard to dependent claims 38, 39 and 46, the response urges that the references applied do not overcome the deficiencies of the references (Sukenikk et al, Vosika et al, Senter et al and Mueller et al) applied to claims 32-37 and 41-45. However, for reasons set forth above, the references are not deficient in rendering the invention of claims 32-37 and 41-45 obvious. The response states that the double patenting rejection will be addressed when all other pending issues are resolved.

Atty. Dkt. No. 034258-1401

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Jennissen, Herbert Peter

JAN 26 2007

Title: METHODS FOR THE  
IMMOBILIZATION OF  
MEDIATOR MOLECULES ON  
INORGANIC AND METALLIC  
IMPLANT MATERIALS

Appl. No.: 10/646,913

Filing Date: August 21, 2003

Examiner: Naff, David M.

Art Unit: 1651

Conf. No.: 8136

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
<i>Rachel Caputo</i> (Printed Name)	
<i>Acute</i> (Signature)	
January 26, 2007 (Date of Deposit)	

MISCELLANEOUS COMMUNICATION

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Communication is intended to clarify that the Amendment and Reply Under 37 CFR 1.111, filed on January 24, 2007 in the above-identified application, and indicated as a response to a Non-Final Office Action was, in fact, intended to be a response to a Final Office Action in accordance with 37 CFR 1.116. Applicant requests the USPTO to consider for all purposes the Amendment and Reply of January 24, 2007 as an Amendment and Reply in accordance with 37 CFR 1.116.

No fee is believed to be due in connection with this communication. However, the Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in

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